

HONORABLE TIFFANY M. CARTWRIGHT

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRAD ERHART,

Plaintiff,

v.

TRINET HR XI, INC., SWITCHBOARD
TECHNOLOGY LABS, INC., AND
HARTFORD LIFE AND ACCIDENT
INSURANCE COMPANY, INC.,

Defendants.

Case No. 3:23-cv-5882 TMC

**RESPONSE TO PLAINTIFF'S MOTION
FOR LEAVE TO FILE A SURREPLY**

NOTED ON MOTION CALENDAR:

Friday, February 9, 2024

On January 19, 2024, Plaintiff filed a motion for leave to file a surreply to Defendant Switchboard's reply in support of its motion to compel arbitration (filed on January 12, 2024, at Docket 25). Switchboard respectfully asks the Court to deny leave for two reasons.

First, Plaintiff's request is procedurally improper. Pursuant to Local Civil Rule 7(g), Plaintiff was required to file a notice of intent as soon as practicable after receiving the reply and was required to file the surreply itself (not to exceed 1,050 words) within five days of the filing of the reply brief. Plaintiff instead filed this motion without attaching a surreply. Plaintiff also requests that he be allowed to file a 4,200-word brief on February 12, 2024, far exceeding the word limit and deadline set forth in the local rules. LCR 7(g)(2) ("The surreply must be filed

RESPONSE TO PLAINTIFF'S MOTION FOR LEAVE TO FILE A
SURREPLY - 1

Case No. 3:23-cv-5882-TMC

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1 within five days of the filing of the reply brief[.]”); LCR 7(g)(3) (“The surreply shall not exceed
 2 1,050 words or, if written by hand or typewriter, three pages.”). Plaintiff’s proposed schedule
 3 would cause significant delay and violates the Local Rules.

4 Second, Plaintiff has not shown that a surreply is warranted. Switchboard’s reply directly
 5 responds to arguments Plaintiff raised in opposition to Switchboard’s motion to compel. *Charter*
 6 *Oak Fire Ins. Co. v. Chas. H. Beresford Co.*, 575 F. Supp. 3d 1313, 1318 (W.D. Wash. 2021) (“In
 7 any event, Travelers’ arguments on Reply are not new arguments and simply respond to
 8 Beresford’s arguments in the Response brief.”) And a party “is entitled to cite to new cases in
 9 response to arguments raised in [a] Response brief.” *Id.* Switchboard did not introduce new
 10 evidence or raise new arguments. *See* Dkt. 17 (Motion); Dkt. 21 (Response); Dkt. 25 (Reply).
 11 Plaintiff has therefore had a fair opportunity to address Switchboard’s motion to compel, and the
 12 Court should deny Plaintiff’s request for more briefing under the circumstances.

13
 14 DATED this 23rd day of January 2024.

15 Respectfully submitted,

16 SUMMIT LAW GROUP, PLLC

17 I certify that this memorandum contains 313 words,
 18 in compliance with the Local Civil Rules.

19 By s/ Eva Sharf Oliver

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24 *Attorneys for Defendant Switchboard*
 25 *Technology Labs, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the USDC, Western District of Washington, using the CM/ECF system which will send notification of such filing to the following:

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DATED THIS 23rd day of January 2024.

s/ Karen M. Lang
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